

**REMARKS/ARGUMENTS**

Applicants would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and amended as necessary to more clearly and particularly describe and claim the subject matter which Applicants regard as the invention.

Claims 1-15 and 17-26 remain in this application. Claim 16 has been canceled.

The Examiner has indicated that claims 1-15 and 18-21 are allowed, and that claims 17 and 23-25 would be allowable if put into independent form. Claims 17 and 24 have been put into independent form, and claims 23 and 25 depend on claim 17, and thus said claims are allowable, as indicted by the Examiner.

Claims 16 and 22 were rejected under 35 U.S.C. §102(b) as being anticipated by Jenkins *et al.* (US 6,126,614). Claim 16 has been canceled, and claim 22 made dependent on allowable claim 17, and thus the rejection is moot.

Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Jenkins in view of Jeng (US 6,139,507). For the following reasons, the rejection is respectfully traversed.

Claim 26 has been amended to recite that “the analysis unit comprises a function for solving an over-determined linear system of equations in terms of minimum squares by use of at least three of said acoustic calibration signals”. None of the cited references teach this limitation of claim 26, and thus the claim is patentable over the references.

Furthermore, the Examiner has not provided the proper motivation for combining the references. Instead, the Examiner merely makes the conclusory statement that it would be “obvious” to combine the teachings, without providing any specific motivation. This is clearly improper and not sufficient to support a *prima facie* case of obviousness.

The burden is on the Examiner to make a prima facie case of obviousness (MPEP §2142). To support a prima facie case of obviousness, the Examiner must show that there is some suggestion or motivation to modify the reference (MPEP §2143.01). The mere fact that references can be combined or modified, alone, is not sufficient to establish prima facie obviousness (Id.). The prior art must also suggest the desirability of the combination (Id.). The fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient, by itself, to establish prima facie obviousness (Id.). Accordingly, the rejection for obviousness is improper, and should be withdrawn.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 35624.

Respectfully submitted,  
PEARNE & GORDON LLP

By 

Robert F. Bodi – Reg. No. 48,540

1801 East 9th Street  
Suite 1200  
Cleveland, Ohio 44114-3108  
(216) 579-1700

Date: March 17, 2006